

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JENNIFER BEARE, as Executrix , and
RICHARD WRIGHT, as Administrator,
C.T.A., of the Estate of LEATRICE
HARRIS,

ORDER

Plaintiffs,

2007 CV 3391 (ERK)(MDG)

- against -

ZSA ZSA MILLINGTON,

Defendant.

- - - - - X

GO, UNITED STATES MAGISTRATE JUDGE:

By motion dated June 25, 2009, the defendant Zsa Zsa Millington, inter alia, moves to strike the plaintiffs' pleadings for failure to respond to the defendant's First and Second Requests for the Production of Documents. Ct. doc. 55 (Defendant's Notice of Motions and Sanctions). At a conference held on July 2, 2009, plaintiffs' counsel agreed to produce some of the documents requested by the defendant but had not had the opportunity to fully review the defendant's motion, which was mailed to plaintiff's counsel one week before the date of the conference. Accordingly, this Court denied without prejudice the defendant's motion as to documents plaintiffs' counsel agreed to produce and reserved decision on those aspects of the motion that plaintiff's counsel was not prepared to address at the conference. See ct. doc. 58.

By affirmation dated July 24, 2009, plaintiffs' counsel forwarded to the Court his responses to the defendant's document requests which were served on the defendant on July 15, 2009.

See Affirmation of Richard Wright dated July 24, 2009 at ¶ 5, Exhs. A, B (not docketed). Having reviewed plaintiffs' document production, the remainder of defendant's motion to compel is denied as moot. Although the plaintiff's document production was late, the extreme remedy requested by the defendant is not warranted.

CONCLUSION

For the foregoing reasons, the defendant's motion to strike is denied.

SO ORDERED.

Dated: Brooklyn, New York
August 19, 2009

/s/
MARILYN DOLAN GO
UNITED STATES MAGISTRATE JUDGE